

b3
cont.
~~disposable attachment means to maintain said attachment means on an object or individual, said body having radio frequency identification circuit means located therein.~~

26. (Amended) The securement means of claim 25 in which said body has opposite ~~extremities~~ demountably engagable with said extremities of said attachment means.

~~27. (Amended) The securement means of claim 25 in which said body has [incorporates] a recess for the reception of said opposite extremities of said attachment means.~~

REMARKS

The Examiner has objected to the drawings and substitute drawings will be filed in the application upon the allowance of claims in the application.

The Abstract of the Disclosure has been amended to satisfy the Examiner's requirements.

The rejection of claims 19, 20, 23, 24, and 27 has been coped with by the extensive amendment of the claims.

The Examiner has rejected claims 25 and 27 on Hayes '374, holding that Hayes shows, in Figs. 1-5, a reusable securement means comprising a body with securement portions and a radio frequency identification circuit means. The

intended use of the device has not been given any patentable weight by the Examiner.

Preliminarily, Applicant points out that, for a prior reference to constitute an anticipation, it must adequately meet the terms of the claims interpreted in the light of the specification of the application. Moreover, a reference cannot be rebuilt or reoriented by the utilization of Applicant's teachings in an attempt to create an anticipatory structure.

A discussion of the criteria to be applied in anticipation rulings is set forth in Aqua-Aerobic Systems Inc. v. Richards of Rockford Inc., 1 USPQ 2d 1945, 1955-57 (N.D. Ill. 1986) as follows:

D. ANTICIPATION

The defense of anticipation or lack of novelty under 35 U.S.C §102 requires that the accused infringer show that a single prior art reference discloses each and every element of the claim under consideration. The parties stipulate to this.

An analysis of the teachings of Hayes '374 indicates that they do not meet the language of claims 25 through 27.

It appears that the Examiner has deviated from the teachings of Hayes '374 in that Hayes shows a head portion 46 which is urged through a slit in the ear of an animal and a retaining member 24 is then urged over the head portion until it snaps into place at the end of the head portion. Hayes describes this action at Col. 6, l. 55-60, as follows:

"Thus, head portion 46 may be forced through the slot by resilient, outward deflection of rib portions 58, 59 which then resiliently inwardly deflect to engage abutment ledge means 56, 57 whereby the head portion 46 may not be withdrawn through the slot after assembly on the animal ear."

Hayes clearly states that "the head portion 46 may not be withdrawn through the slot after assembly on the animal ear." The language clearly does not support the Examiner's statement "a reusable securement means." Furthermore, nowhere in Hayes is there any statement regarding reusable securement means having securement portions engagable with opposite extremities of the disposable attachment means. In Hayes, the attachment means 24 and 46 are located at one end of the tag of Hayes.

Moreover, the body of the securement means does not have radio frequency identification circuit means located therein. Since claims 26 and 27 include the aforesaid limitation, it is respectfully submitted that the rejection of 25-27 on Hayes is not supported by the disclosures of Hayes.

The Examiner has rejected claims 19-27 on deJong, in view of Hayes; however, as previously indicated, the teachings of Hayes do not support the Examiner's teachings

thereof and the combination of Hayes with deJong does not provide a reasonable basis for a rejection on \$103.

In making this rejection, the Examiner states that Hayes shows a reusable securement means, but this is totally inconsonant with the teachings of Hayes which shows permanent affixation of the piercing head 46 by the securement disk 24.

The Examiner has also rejected claims 19-27 as unpatentable over Pennock in view of Hayes. Once again, the Examiner misinterprets the teachings of Hayes by stating that Hayes shows a reusable securement means having radio frequency identification circuit means. The securement means in Hayes does not have a radio frequency identification circuit means located therein. The radio frequency circuit means is located in the body of the tag of Hayes.

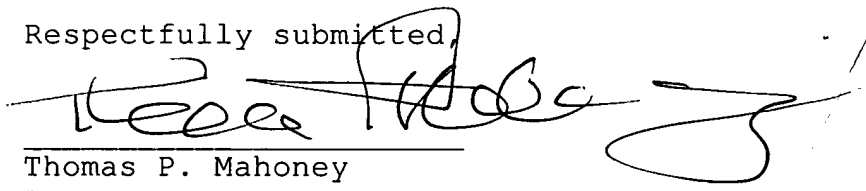
The Examiner has further rejected claims 19-27 as unpatentable over Pennock in view of deJong '234. The essence of Pennock's teachings is that the securement means connects two ends of a pet collar and has a battery inside to illuminate lights in the collar. DeJong just shows the permanent affixation of an identification device incorporating an identification circuit. A member 3 is

provided with a pin 5 whose head includes a metal tip 16 which is forced through a bore 17 to permanently affix a member 1 to an animal's ear. There is absolutely no teaching in either Pennock or deJong of the concept of providing an RFID circuit in a reusable securement means which is removably associated with attachment means of a disposable nature.

In view of applicant's conformity with all of the formal requirements made by the Examiner and the extensive discussion of the prior art which indicates the inefficacy of the prior art as a basis for the rejections made by the Examiner, it is thought that the application is now in condition for allowance, notice whereof is respectfully requested of the Examiner in his next action.

Respectfully submitted,

Date: 11/2/09


Thomas P. Mahoney
Attorney at Law
Reg. No. 15,513
660 Newport Center Dr., Suite 710
Newport Beach, California 92660
949-718-1120

TPM:ad